

## UNITED STATES DISTRICT COURT SDNY

for the

Southern District of New York

DOCUMENT

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DATE FILED: 7/11/2024

United States of America

v.

Dionysius Fiumano

Case No: 1: 14 CR 518-02 (CM)

USM No: 68056-112

Date of Original Judgment: 09/15/2016

Date of Previous Amended Judgment:

(Use Date of Last Amended Judgment if Any)

H. Dean Steward

Defendant's Attorney

**ORDER REGARDING MOTION FOR SENTENCE REDUCTION  
PURSUANT TO 18 U.S.C. § 3582(c)(2)**

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion, and taking into account the policy statement set forth at USSG §1B1.10 and the sentencing factors set forth in 18 U.S.C. § 3553(a), to the extent that they are applicable,

**IT IS ORDERED** that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of \_\_\_\_\_ months is reduced to \_\_\_\_\_.

(See Page 2 for additional parts. Complete Parts I and II of Page 2 when motion is granted)

The November 1, 2023, edition of the Guidelines Manual amended the enhancement for committing the instant offense while on a criminal justice sentence at USSG §4A1.1(e) ("status points"), and created a reduction in the offense level for "zero-point offenders" at USSG §4C1.1. Pursuant to §1B1.10, these amendments have been made retroactive.

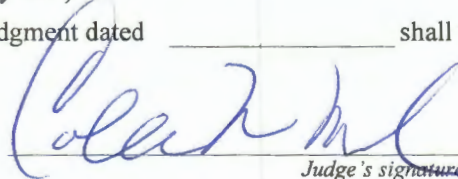
The defendant is precluded from a sentence reduction pursuant to the 2023 Amendments because he fails to meet the eligibility criteria under either the Status Points or Zero-Point Offender amendments: (1) Defendant did not receive a status point enhancement, and (2) although defendant was a zero-point offender prior to his conviction in this case, he does not meet the criteria for that reduction, specifically USSG §4C1.1(a)(6), (9) and (10).

Even if the defendant had met the criteria for a two-level reduction under the Zero-Point Offender amendment, he still would not have been eligible for a sentence reduction since his original sentence of 192 months imprisonment would have been below his applicable guideline range of imprisonment of 324 to 405 months' imprisonment (based on a proposed amended offense level of 41 and Criminal History Category of I).

Except as otherwise provided, all provisions of the judgment dated \_\_\_\_\_ shall remain in effect.

**IT IS SO ORDERED.**

Order Date: 07/11/2024



Judge's signature

Effective Date: \_\_\_\_\_  
(if different from order date)

Colleen McMahon, U.S.D.J.

Printed name and title